

28th September 2020

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Representative image

MUMBAI: In what is being perceived as yet another hurdle for international students in the US, the Trump administration has released a proposed rule which will limit the duration of student visas to four-years and in some instances limit it to two- years. While international students can apply for visa extensions, the proposed process is being viewed as cumbersome and the proposed norms are viewed as narrow. Immigration experts opine that not all extension requests will sail through, but it remains to be seen how this would pan out.

International students will also need an extension to participate in the post-study optional practical training (OPT) training program which is of one year and of three years for students from the science, technology, engineering, mathematics (STEM) fields.

Currently, international students can stay in the US as long as they are engaged in studies – there is no fixed expiry date – this is referred to as admission for ‘duration of status’. TOI had earlier reported that the Trump administration proposed to change the admission norms to ‘duration of stay’ with a fixed end date.

Under the proposed rule, F or J non-immigrants (which covers students undertaking academic courses, research scholars and their dependants) will be admitted to the US for a period not exceeding four years. In certain cases, the authorised stay can even be limited to two years.

The two-year tenure applies to international students who were born in or are citizens of countries which are on the terrorist list and those countries which have a visa overstay rate of more than 10%.

While India does not figure in these two categories, Indian students need to be careful. This is because the US Department of Homeland Security (DHS) proposes to even limit the visa tenure to two-years where the educational institution is not a E-verify enrolment program participant or is not accredited by an agency recognised by the US Secretary of Education. The two-year limit also applies for students participating in language training programs.

While the numbers may have dropped in the backdrop of the pandemic, according to the Open Doors Report released last November, the US had over a million international students, of which 2.02 lakh were from India. Once the rules are final, the fixed tenure of authorised stay will also apply to students already in the US, who were admitted under the 'duration of status' norms.

DHS in its proposed policy points out that students pursuing a bachelors or masters degree make up 80% of the non-immigrant students in the US and many would complete their studies within a four-year period without having to seek additional time.

Rajiv S. Khanna, Arlington based, immigration attorney told TOI, "For Indian and other international students, the proposed fixed tenure creates a problem. A four-year cap is definitely shorter than a PhD or even a bachelor's degree course because students can opt for an extra semester in their bachelor course. Now, if students who are already here, have to apply for extensions, it will add to their expenses, but moreover it creates an additional element of uncertainty."

Doug Rand, co-founder, Boundless Immigration, a technology company in the immigration space, has tweeted, "Because I'm in a PhD program is 'not' one of the grounds for a student visa extension beyond four years in the proposed rules." He adds, "Leave it to the Trump administration to treat the best-trained, most dedicated, most critical to the US-tech PhD students as a rounding error."

Other key points in the proposed rule is to cut down the period to prepare for departure from 60 to 30 days and collection of routine biometrics from those seeking an extension.

The proposed rule was published in the official register today and a thirty-day period (up to October 26) is open for public comments. Typically, post review of these comments, it takes some months for a proposed rule to become final.

The avowed objective is national security and strengthening of immigration laws. Ken Cuccinelli, senior official performing the duties of the deputy secretary, stated, "Amending the relevant regulations is critical in improving program oversight mechanisms; preventing foreign adversaries from exploiting the country's education

environment; and properly enforcing and strengthening US immigration laws.” However, immigration experts are sceptical on how exactly this proposed policy will help attain the objectives. “This is another example of policy without purpose. If there is a purpose that I can discern, it appears to be just to make things more difficult for students, increase their expenses and uncertainty,” states Khanna.

He asks, “It makes absolutely no sense to have students who have been here for two-six years, to wrap up and their life and leave in just 30 days, how does cutting this period down from 60 days help attain the objectives? Or having them spend \$400-500 to keep extending their status, makes no sense other than to fill the government’s coffers.”

According to the latest ‘Overstay Report’ of the DHS, of the total number of 19.49 lakh international students (those from Mexico and Canada are not included in this statistic), who were scheduled to complete their studies during the 12-month period ended September 30, 2019, nearly 60,000 or 3.09% overstayed. As regards Indian students, of the 1.59 lakh expected to leave by this date, 5,304 or 3.32% overstayed. For its report, DHS considers F visa holders (those pursuing academic studies) and also vocational students and research scholars, holding M and J visas respectively.

In this context, Khanna points out, “Less than 5% of Indian students have any suspected or actual incident of visa overstays. So, this proposed policy would discomfort 95% students to try and address a perceived problem in 5%?”